

Personnel Management

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Personnel Management

5-01 CHIEF JUDGE/TRIAL JUDGE RELATIONSHIP (INTRA-COURT)/ COURT EMPLOYEES

A. Authority

The relationship between the chief judge and other judges on a multi-judge bench are based on the provisions of MCR 8.110, the Chief Judge Rule. Several of the more pertinent sections of the rule follow. MCR 8.110(C)(3) specifically gives the chief judge "administrative superintending power and control over the judges of the court and all court personnel with authority and responsibility to:

- (c) determine the hours of the court and the judges; coordinate the number of judges and court personnel required to be present at any one time to perform necessary judicial and administrative work of the court; and require their presence to perform that work;
- (e) coordinate judicial and personnel vacations and absences, subject to the provision of subrule (D);"

B. Duties and Responsibilities

1. Requirement to Report to State Court Administrator

The chief judge is required to report to the State Court Administrator if a judge does not timely dispose of his or her assigned judicial work or fails or refuses to comply with an order or directive of the chief judge. [MCR 8.110(C)(4)]

2. Monitoring of Other Judges

A judge may not be absent from the court without the chief judge's prior approval, except for personal illness. In making the decision on a request to approve vacation or other absence, the chief judge may consider, among other factors, the pending caseload of the judge involved, including the judge's latest report under MCR 8.107; the number of cases ready for trial and awaiting trial; and the length of time the cases have been pending. The chief judge shall maintain records of absences to be available at the request of the Supreme Court. [MCR 8.110(D)(4)]

These provisions clearly establish the principle that the chief judge is accountable for the hours of work, attendance, productivity, and vacations of his/her fellow judges.

C. Court Staff

The chief judge has authority and responsibility to supervise the performance of all court personnel with the exception of a judge's secretary and law clerk. [MCR 8.110(C)(3)(d), Mich Sup Ct AO 1997-6]

D. Gender and Racial/Ethnic Issues

The Michigan Supreme Court has directed the courts to commit themselves to eliminating racial, ethnic, and gender bias in the areas of administration, staffing, and behavior or treatment of employees within the courts. Court employees should familiarize themselves with the conclusions and recommendations of the Task Force on Gender Issues in the Courts and the Task Force on Racial/Ethnic Issues in the Courts and adopt measures to implement these recommendations.

1. Recommendations to Reduce Racial/Ethnic Bias in the Administration, Staffing, and Behavior of the Court

"The lack of equal opportunity for minority participation in business, corporate, and professional affairs, is a grave societal problem that will not be solved by legislation and judicial decrees alone. Full and equal opportunities for racial and ethnic minorities will exist only after an informed society rejects discrimination and racism, not only because they may be unlawful, but also because they violate the moral and human values upon which our Nation was founded." [The Michigan Supreme Court Task Force on Racial Ethnic Issues in the Courts: Conclusions and Recommendations, p. 1]

- a. The Michigan Supreme Court should direct each chief judge and administrator to attend training regarding the role and significance of the executive component to court administration. This training should include, at a minimum, the following:
 1. The roles and responsibility of the chief judge and court administrator in personnel matters, including equal opportunity and bias-free treatment of the public.
 2. Treatment of staff, prohibition of racial or ethnic harassment, propriety of special service, intimidation, and stereotyping on racial or cultural basis.
- b. Each court should develop written personnel policies and procedures which include, but are not limited to, equal opportunity, recruitment, promotional procedures, and disciplinary actions. Of particular importance is the fact that employee grievances must be disposed of expeditiously and fairly.
- c. Each court should provide for the training of its supervisors and managers in human resource management issues, including the importance of fair and equitable practices in promotion, discipline, and job assignments.

[The Michigan Supreme Court Task Force on Racial/Ethnic Issues in the Court: Conclusions and Recommendations, pp. 6 and 7]

2. Recommendations to Improve Treatment of Court Personnel

"A fundamental principle of our constitutional government is that discriminatory treatment on the basis of race, gender, economic class, religion, or physical condition cannot and will not be tolerated. Bias damages a court in its fundamental role as dispenser of justice."

"The Task Force Bias defined gender bias as: . . . the tendency to think about and behave toward others primarily on the basis of their sex. It is reflected in attitudes and behavior toward women and men which are based on stereotypical beliefs about the "true nature", "proper role", and other "attributes" of the gender."

[The Michigan Supreme Court Task Force on Gender Issues in the Courts: Conclusions and Recommendations, p. 1]

- a. Standardized employment policies and procedures should be adopted by the Supreme Court for the administration of Michigan courts with particular emphasis on:
 - 1) equal employment goals;
 - 2) sexual harassment;
 - 3) disability and parental leave; and
 - 4) flexible work schedules.

All courts should be required to promulgate written policies which accord with these standards.

- b. Training programs should be developed for the executive component of the courts to teach administrative topics which impact disparately upon male and female court employees.
- c. Education programs should be developed for all judicial and court support personnel addressing issues of gender bias and sexual harassment in the administrative environment.

[The Michigan Supreme Court Task Force on Gender Issues in the Courts: Conclusion and Recommendations, pp. 16 and 17]

5-02 HUMAN RESOURCE PROGRAMS IN THE TRIAL COURT

A. Authority

Based principally on the case law established in the labor relations area, trial courts have been firmly established as the legal employer of trial court employees. Consequently, external enforcement agencies will hold the court itself accountable for violation of employee rights created by the State Legislature and Congress. [See also 1996 PA 374 and Mich Sup Ct AO 1997-6]

B. Purpose

There are several reasons for a personnel administration program in the trial court. First, a good management of the public's courts requires that trained, qualified personnel be recruited to handle the court's business and that they be hired, retained, promoted, disciplined, or removed according to their abilities and job performance. Staff are the most important resource to be found in a court and constitute the major portion of a court's annual budget.

Secondly, sound personnel policies, procedures, and work rules define the expectations of management and the obligations of employees. Compensation based on prevailing conditions found in comparable settings has been adopted as a policy by most Michigan courts. Pay practices should be in writing to guide managerial decision making and to avoid charges of favoritism or discrimination.

C. Scope

Three common terms which are sometimes confused are "work rules", "procedures", and "policies". Work rules are written or unwritten rules concerning how employees are to conduct themselves in the performance of work duties. Procedures are administrative or technical instructions for performing a specific task. An expectation that employees follow established procedures could itself be a work rule, but the procedures themselves are not work rules. Policies are broad guidelines intended to guide decision-making and are used where rigid procedures or rules are not practical.

1. Personnel Policies

The management responsibilities listed in the Chief Judge Rule combined with the duties imposed by law can be best carried out where formal personnel policies have been adopted by the court. Topics that should be included are:

- a. establishment of the classification and pay system,
- b. hours of work and overtime,

- c. sick leave and vacation policies,
- d. discipline and grievance procedures,
- e. holidays,
- f. conflict of interest and ethics,
- g. equal employment opportunity, and
- h. political activities.

The court may wish to write its own policies or modify those of the funding unit or the State Court Administrative Office. In any event, policies should be adopted consciously by the court.

2. Work Rules

Several considerations should be kept in mind in the development of work rules:

- a. Work rules must be reasonable under the circumstances. They must be related to the attainment of organizational goals or designed to protect the welfare of the organization's members.
- b. Never establish a rule that can't or won't be enforced.
- c. Rules must be communicated to those affected by them - communicated in person so that employees have an opportunity to ask questions.

5-03 INFORMATION ON PERSONNEL LABOR RELATIONS

Michigan trial courts as public employers are subject to both state and federal laws applicable to employers generally, as follows:

A. Equal Employment Laws

1. Title VII of the Civil Rights Act of 1964

This Act was amended by the Equal Employment Opportunity Act of 1972 and outlaws discrimination on the basis of race, color, religion, sex, or national origin. Its provisions are enforced by the Equal Employment Opportunity Commission. The EEOC delegated investigation and enforcement responsibilities to the Michigan Civil Rights Commission. [42 USC 2000 et seq.]

2. Elliot-Larsen Act

This Michigan statute parallels Title VII of the Civil Rights Act of 1964. In addition to prohibiting discrimination based on the categories listed in Title VII of the Civil Rights Acts of 1964 (race, color, religion, sex, or national origin), Michigan law bans discrimination based on marital status, height, weight, or age. [MCL 37.2101 et seq.]

3. Handicappers' Civil Rights Act

Michigan employers are also subject to the provisions of the Handicappers' Civil Rights Act which bars discrimination based on handicapping condition and requires employers to make reasonable accommodations for handicapped employees. [MCL 37.1101 et seq.]

4. Rehabilitation Act of 1976

Section 504 of the Rehabilitation Act of 1976, as amended, prohibits all recipients of federal funding from discriminating against handicapped individuals. [29 USC 706]

5. Equal Pay Act of 1963

This Act is an amendment to the Fair Labor Standards Act and outlaws sex-based discrimination in rates of pay paid to employees. In 1985 the United State Supreme Court upheld application of the Fair Labor Standards Act to state and local governmental employers. The Equal Pay Act is enforced by the EEOC. [29 USC 206(d)]

6. Age Discrimination in Employment Act of 1967

As amended in 1978, this Act prohibits discrimination in employment against individuals who are at least age 40 but less than 70 years of age. The Age Discrimination Act is enforced by the EEOC. [29 USC 621-634]

7. Civil Rights Act of 1971

The Civil Rights Act prohibits discriminatory practices on the part of state and local governmental employers. Actions arising under Section 1981 and 1983 may properly be brought in either the federal district court or the appropriate state court of general jurisdiction. [42 USC 1983]

8. Polygraph Protection Act of 1981

Michigan employers are prohibited from requiring that applicants for employment or employees submit to polygraph examination as a condition of employment. [MCL 37.202 et seq.]

9. Americans With Disabilities Act of 1990 (ADA)

The Americans With Disabilities Act requires equal employment opportunities for qualified individuals with disabilities. Title I of the Act prohibits employers from discriminating against individuals with disabilities in any aspect of employment and requires them to provide reasonable accommodations to enable workers with disabilities to perform their jobs. Title I was effective on July 26, 1994 for employers of 15 or more employees. Subpart A of Title II prohibits discrimination by public entities. Title III of the Act deals with public accommodations. [42 USC 12101 et seq.]

10. Family and Medical Leave Act of 1993 (FMLA)

The FMLA was effective August 5, 1993 for most employers (for employers covered by collective bargaining agreements; effective upon expiration of collective bargaining agreement or February 5, 1994, whichever is earlier). Eligible employees (who have worked for the employer for a total of at least 12 months and have worked at least 1,250 hours over the 12 months prior to the leave) are entitled to up to 12 work weeks of unpaid leave for: the birth/care of a newborn, adopted, or newly placed foster child; care of a spouse, child, or parent with a serious illness; or an illness rendering the employee unable to work. An employer must maintain group health insurance coverage and the employee's original or an equivalent position for the the employee during FMLA leave. [29 CFR Part 825]

11. Civil Rights Act of 1991

The purposes of this Act are to provide appropriate remedies for intentional discrimination and unlawful harassment in the workplace, to confirm statutory authority and provide statutory guidelines for the adjudication of disparate impact suits under title VII of the Civil Rights Act of 1964 (42 USC 2000e et seq.), and expand the scope of relevant civil rights statutes in order to provide adequate protection to victims of discrimination. Under this Act a complainant may recover punitive and compensatory damages not previously provided by law. [29 CFR Part 825]

B. Wages and Hours of Work

1. Fair Labor Standards Act of 1938 (FLSA)

This Act sets minimum wage, overtime, equal pay, recordkeeping, and child labor standards for employees who are covered by the Act and are not exempt from specific provisions. The Act is supplemented by numerous regulations issued by the U.S. Department of Labor. [Title 29 USC Chapter 8, 29 CFR et seq.]

Adopted by Congress in 1938, initially the Act only applied to private employers. In 1974 Congress amended the Act to extend its provisions to most state and local governmental employers. In 1976 the U.S. Supreme Court held that the 10th Amendment to the U.S. Constitution rendered the application of the minimum wage and overtime provisions of the FLSA to state and local governments unconstitutional. [National League of Cities v Usery, 426 US 833 (1976)]

From 1976 until 1985 state trial court employees were covered by virtually identical minimum wage and overtime provisions of state law (MCL 408.381 et seq.; MSA 17.255(1)) by virtue of an Attorney General opinion issued in 1976. [1976 OAG 5115]

In April, 1985 the U.S. Supreme Court overturned Usery, placing state trial court employees once more under the jurisdiction of the U.S. Department of Labor for enforcement of the Fair Labor Standards Act's requirements. [Garcia v San Antonio Metropolitan Transit Authority, 469 US 528 (1985)]

2. Hittle Juvenile Employment Act

Employment of minors is governed by the Hittle Juvenile Employment Act. [MCL 409.1 et seq.; MSA 17.701 et seq.]

3. Wages and Fringe Benefits

Prompt payment of wages and limitations on involuntary deductions from wages are governed by the provisions of this statute. [MCL 408.471 et seq.]

C. General Labor Legislation

1. Employment Security Act

Unemployment benefits for court employees are provided by the Employment Security Act. Care should be exercised in reviewing unemployment claims submitted by former court employees. Under certain circumstances findings of fact made by the Michigan Employment Security Commission regarding the reasons for employee's separation from employment may be held to be controlling for other purposes. [MCL 421.1 et seq.]

2. Worker's Disability Compensation Act

The compensation of employees injured or disabled as a result of their employment is governed by this statute. [MCL 418.101 et seq.]

3. Michigan Occupational Safety and Health Act

The prevention of on-the-job injuries through the elimination of hazardous or unsafe working conditions is under the jurisdiction of the Michigan Department of Labor by virtue of this Act. [MCL 408.10 et seq.]

4. Veteran's Reemployment Rights Act

Federal law provides reemployment rights for employees who leave their employment to perform training or other military service in the armed forces.
[Title 38 USC Part III]

5. Bullard-Plawecki Employee Right to Know Act

State law protects the right of employees to review the employer's personnel records.
[MCL 423.501 et seq.]

6. Immigration Reform and Control Act

In 1986 Congress passed the Immigration Reform and Control Act. This law requires all employers to check certain documents when employing any person in order to assure the employee is legally able to work in the United States. Information on the requirements of the act may be obtained from Immigration and Naturalization Service (hotline 1-800-777-7700).

7. Consolidated Omnibus Budget and Reconciliation Act (COBRA)

Congress enacted the Consolidated Omnibus Budget and Reconciliation Act (COBRA) which requires all employers having group health plans to offer employees, their spouses, and eligible dependents the opportunity for a temporary extension of health care benefits (medical, dental, and optical) at group rates in certain instances where coverage under the group would otherwise end. [P.L. 99-272]

Employees must be given the opportunity to elect to continue group coverage (at the employee's expense) at group rates (plus a 2% administrative fee) under the employer's health, dental, or optical plans, if any, if employment is terminated or if a reduction in work hours would result in exclusion from the plan. Extended eligibility for group coverage in these two circumstances is for a period of 18 months. In addition, if spouses and certain dependents of employees are covered by the employer's plan, they also must be given the right to elect to continue coverage for themselves if group coverage under the employer's plan ends for any of the following reasons:

- a. divorce or legal separation from a spouse or of parents;
- b. death of a parent or spouse;
- c. the spouse or parent become eligible for Medicare; or
- d. no longer a "dependent child" eligible for coverage under the terms of the employer's plan.

Extended eligibility for group coverage shall be available if one of these four qualifying events occurs and is for a total maximum period of 36 months. A former employee or qualified beneficiary who is determined to have been disabled for Social Security purposes at the time of the termination of employment or reduction in hours and who gives the plan administrator notice of such determination within 60 days and before the end of the 18-month continuation period may extend the continuation coverage to 29 months. The disability extension provision is effective regardless of when the qualifying event occurred. In all other cases, the qualified beneficiary must be allowed to continue for at least 36 months. Employees and other eligible persons must provide written notice to their employer within 60 days if they desire to retain coverage under COBRA. Employers are required by this federal law to give written notice of these provisions to all new employees upon being hired and in all other circumstances if the employer is aware of the potentially qualifying event.

Additional information may be obtained from the State Court Administrative Office Trial Court Services Division.

D. Labor-Management Relations**Public Employment Relations Act (PERA)**

The trial courts are governed by the provisions of the Public Employment Relations Act. Collective bargaining can be found in more than half of the trial courts. This statute is enforced by the Michigan Employment Relations Commission (MERC) in the Michigan Department of Labor. An extensive body of case law has been developed over the past fifty years since the initial federal legislation mandating collective bargaining with employees' representatives in the private sector was enacted. Labor counsel should be consulted if the court is facing a representation election or collective bargaining for the first time. [MCL 423.1 et seq.]

5-04 EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION

A. Authority and Scope

Since 1972, virtually all state and local governments are subject to the anti-job discrimination rules established by Title VII of the Civil Rights Act of 1964, enforced by the U.S. Equal Employment Opportunity Commission (EEOC). In Michigan enforcement is also handled by the Michigan Civil Rights Commission.

1. Federal Law

Title VII prohibits discrimination on the basis of race, color, religion, sex, or national origin, as does state law, but the state goes further and also prohibits discrimination because of age, ancestry, handicap, marital status, height, and weight. Under federal law, the personal staff of publicly elected officials is exempted from the protection of the Act. (This is not the case with state law).

[Equal Opportunity Act of 1972 (Public Law 92-261) and Title VII of the Civil Rights Act of 1964 (78 State 253; 42 USC 2000e et seq.) as amended by the Equal Opportunity Act of 1972]

2. State Law

Michigan law exempts only publicly elected officials themselves and not their personal staffs. It is therefore important that accepted personnel practices and procedures be utilized in the recruitment and selection of personal staff. [1955 PA 251, as amended by 1965 PA 344, 1966 PA 349, 1972 PA 267 - MCL 37.2101]

3. Administrative Order

The Michigan Supreme Court is committed to assuring the fair and equal application of the rule of law for all persons in the Michigan court system. [Mich Sup Ct AO 1990-3]

B. Purpose

These acts and orders are intended to promote and protect the welfare of the people by prevention and elimination of discriminatory employment practices and policies.

Since the passage of these laws, it has become apparent to many government employers that merely enforcing a policy of "non-discrimination" does not result in instant equal job opportunity for all persons. Old attitudes and methods need review and modification. The effects of generations of discrimination and under-employment of minorities and women by many public and private employers still exist. Many minorities and women are locked in "dead-end" jobs.

Some members of minority groups, disadvantaged by an inferior educational system in their areas, lack the necessary skills and training to perform in well-paying public jobs. Many other minorities are fully qualified for public employment but are blocked by artificial barriers such as non job-related written tests, arbitrary educational requirements, and invalid background examinations.

C. Court as an Employer

Each court, as the recognized employer of court employees, should develop and administer their own equal opportunity employment program. In some instances it may be feasible for the court to adopt the program of the local funding unit by reference. [Wayne Circuit Judges v Wayne County, 386 Mich 1 (1971); Livingston County v Livingston Circuit Judge, 393 Mich 265 (1975); Judges of 74th Judicial District v Bay County, 385 Mich 710 (1971)] (See also 1996 PA 374 and Mich Sup Ct AO 1998-5)

D. Functions

Across the country, local governmental units have realized that discriminatory employment practices and policies demand not just "non-discrimination" but an affirmative effort to correct present effects of past discrimination; a commitment to undertake a strong "affirmative action program."

1. Working Definition of Affirmative Action

In its simplest terms, affirmative action is a comprehensive effort by an employer to:

- a. identify all barriers in the human resource management system which limit the ability of applicants and employees to reach their full employment potential, without regard to race, sex, religion, national origin, or other factors.
- b. eliminate all such barriers in a timely, coordinated manner.
- c. undertake whatever special programs are needed to accelerate the process.

2. Affirmative Action Program

An affirmative action program should include not just some but all of the following:

- a. commitment from the chief judge.
- b. designation of an affirmative action coordinator and assignment of specific responsibilities. The affirmative action coordinator should be the court administrator or other court staff person responsible for recruitment and hiring.

- c. outreach recruitment, which refers to the initiation of new recruitment techniques and an attempt to be more thorough in reaching minority neighborhood schools, newspapers, etc.
- d. job analysis and, where needed, job restructuring. Job analysis is a systematic procedure for gathering information about jobs which would identify the duties and responsibilities of the job as well as qualifications necessary to perform it.
- e. validation and revision of examinations, educational requirements, and all other screening criteria. Test validation is ensuring that selection devices predict job performance of job applicants. This has become necessary because formerly many tests worked to the exclusion of women and minorities for no valid reason.
- f. upgrading and training programs. These are necessary for upward mobility at all levels of employment.
- g. internal complaint procedure. An internal complaint procedure is an important morale factor and allows employees to air their grievances.
- h. supervisory training. Supervisory training is invaluable because it allows people to move up in the ranks and receive additional training at the first line supervisory level.
- i. employment census and progress report system. This is important in order to keep internal records of up-to-date area population ratios, counts of minorities, and women at the various job levels and promotion from within at all levels of employment. (see pages 5-04-04 and 5-04-05)
- j. staff planning. Staff planning is an organized, practical way to prepare in advance for future employment needs.

E. Federal Grant Compliance

Those courts receiving any federal money in the form of grant funding should make sure that they comply with the necessary requirements that exist in terms of affirmative action compliance, submission of a written report annually, etc. Failure to do so could result in a cutoff of funding.

F. Penalties for Noncompliance

The penalties for noncompliance are harsh. Back pay settlements have ranged from a few hundred dollars to tens and hundreds of thousands. In addition, the enforcing agencies can require reinstatement of complainants, preferential hiring for identified victims of unlawful discrimination, costly validation of employment tests, and crash affirmative action programs.

G. Equal Employment Opportunity (EEO) Complaints

A job applicant or an employee who feels that s/he suffered discrimination on the basis of race, color, religion, national origin, sex, or age has the right to file a complaint.

Complaints may be filed with either:

1. U.S. Equal Employment Opportunity Commission (EEOC)
2. Michigan Civil Rights Commission (MCRC)

Groups who feel they are being discriminated against may also file a complaint with the above agencies.

H. Equal Employment Opportunity Staffing Plan Report

1. Employment Comparison With Population

The following is an example of a brief chart that can be used to indicate percentages of actual employment in your area as compared to population according to 1990 census figures.

Actual Employment			
Minority	___%	White	___%
Males	___%	Females	___%
1990 Census Figures			
Minority	___%	White	___%
Males	___%	Females	___%

Population information and a variety of other statistical data may be obtained by writing to the U.S. Department of Commerce, Bureau of the Census, Washington, D.C. 20233 or from the Michigan Employment Security Commission, Lansing, Michigan or from your local library.

2. Work Force Alignment

The following chart is suggested as a way to illustrate the alignment of minorities and women at the various levels using the suggested Equal Employment Opportunity Commission Job Categories. Following are some definitions:

a. Definitions for Job Categories

1) Office and Clerical Workers

Occupations in which workers are responsible for internal and external communication, recording and retrieval of data and/or information and other paper work required in an office. Includes bookkeepers, messengers, office machine operators, clerk-typists, stenographers, court transcribers, hearing reporters, statistical clerks, dispatchers, license distributors, payroll clerks, assignment clerks, court registers, judicial secretaries, court reporters/recorders, cashiers, and kindred workers.

2) Officials and Administrators

Occupations in which employees set broad policies, exercise overall responsibility for execution of these policies, or direct individual departments or special phases of the agency's operations or provide specialized consultation on a regional, district or area basis. Includes court administrators, deputy court administrators, clerks of the court, friend of the court and deputy friend of the court, department directors, deputy directors, bureau chiefs, and deputies, division chiefs, controllers, wardens, superintendents, administrative officers, and kindred workers.

3) Para-professionals

Occupations in which workers perform some of the duties of a professional or technician in a supportive role, which require less formal training and/or experience normally required for professional or technical status. Such positions may fall within an identified pattern of staff development and promotion under a "New Careers' concept". Includes mediation clerks, library assistants, research assistants, medical aides, child support workers, police auxiliary, welfare service aides, and kindred workers. Positions are generally in the human services area.

4) Professionals

Occupations which require specialized and theoretical knowledge which is usually acquired through college training or through work experience and other training which provides comparable knowledge. Includes middle and lower level managers, administrators, and specialists, personnel and labor relations workers, social workers, magistrates, law clerks, family counselors, mediators, referees, probation officers, doctors, psychologists, registered nurses, economists, dieticians, lawyers, system analysts, accountants, engineers, employment and vocational rehabilitation counselors, teachers or instructors, police and fire captains and lieutenants, and kindred workers.

5) Protective Service Workers

Occupations in which workers are entrusted with public safety, security and protection from destructive forces. Includes police officers, fire fighters, guards, corrections officers, detectives, bailiffs/court officers, and kindred workers.

6) Service/Maintenance Workers

Occupations in which workers perform duties which result in or contribute to the comfort, convenience, hygiene or safety of the general public or which contribute to the upkeep and care of buildings, facilities or grounds or public property. Workers in this group may operate machinery. Includes vehicle drivers, laundry and dry cleaning operatives, garage laborers, custodial personnel, gardeners and groundskeepers, refuse collectors, construction laborers, and domestic service workers such as cooks, bakers and institution workers.

7) Skilled Craft Workers

Occupations in which workers perform jobs which require special manual skill and a thorough and comprehensive knowledge of the processes involved in the work which is acquired through on-the-job training and experience or through apprenticeship or other formal training programs. Includes mechanics and repairmen, electricians, heavy equipment operators, stationary engineers, skilled machining occupations, carpenters, compositors and typesetters, and kindred workers.

8) Technicians

Occupations which require a combination of basic scientific or technical knowledge and manual skill which can be obtained through specialized post-secondary school education or through equivalent on-the-job training. Includes computer programmers and operators, drafters, surveyors, licensed practical nurses, photographers, radio operators, technical illustrators, technicians (medical, dental, electronic, physical sciences), inspectors, investigators, police and fire sergeants and kindred workers. Positions frequently provide support in the sciences and engineering.

b. Definitions of Persons**1) White (not of Hispanic Origin)**

Persons having origins in any of the original peoples of Europe, North Africa, or the Middle East.

2) Black (not of Hispanic Origin)

Persons having origins in any of the Black racial groups of Africa.

3) American Indian or Alaskan Native

Persons having origins in any of the original peoples of North America, and who maintain cultural identification through tribal affiliation or community recognition.

4) Hispanic

Persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race.

5) Asian or Pacific Islander

Persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands. This area includes, for example, China, Japan, Korea, the Philippine Islands, and Samoa.

6) Handicapper

Any person who has a physical or mental impairment which substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment.

7) Multi-racial

Persons having parents from more than one of the broad racial categories listed above in 1) through 5).

Work Force Alignment

	Female	Male	Total
a. Office and Clerical Workers			
White	—	—	—
Black	—	—	—
American Indian/Alaskan Native	—	—	—
Hispanic	—	—	—
Asian/Pacific Islander	—	—	—
Handicapper	—	—	—
Multi-racial	—	—	—
b. Officials and Administrators			
White	—	—	—
Black	—	—	—
American Indian/Alaskan Native	—	—	—
Hispanic	—	—	—
Asian/Pacific Islander	—	—	—
Handicapper	—	—	—
Multi-racial	—	—	—
c. Para-Professionals			
White	—	—	—
Black	—	—	—
American Indian/Alaskan Native	—	—	—
Hispanic	—	—	—
Asian/Pacific Islander	—	—	—
Handicapper	—	—	—
Multi-racial	—	—	—
d. Professionals			
White	—	—	—
Black	—	—	—
American Indian/Alaskan Native	—	—	—
Hispanic	—	—	—
Asian/Pacific Islander	—	—	—
Handicapper	—	—	—
Multi-racial	—	—	—

Work Force Alignment

	Female	Male	Total
e. Protective Service Workers			
White	—	—	—
Black	—	—	—
American Indian/Alaskan Native	—	—	—
Hispanic	—	—	—
Asian/Pacific Islander	—	—	—
Handicapper	—	—	—
Multi-racial	—	—	—
f. Service/Maintenance Workers			
White	—	—	—
Black	—	—	—
American Indian/Alaskan Native	—	—	—
Hispanic	—	—	—
Asian/Pacific Islander	—	—	—
Handicapper	—	—	—
Multi-racial	—	—	—
g. Skilled Craft Workers			
White	—	—	—
Black	—	—	—
American Indian/Alaskan Native	—	—	—
Hispanic	—	—	—
Asian/Pacific Islander	—	—	—
Handicapper	—	—	—
Multi-racial	—	—	—
h. Technicians			
White	—	—	—
Black	—	—	—
American Indian/Alaskan Native	—	—	—
Hispanic	—	—	—
Asian/Pacific Islander	—	—	—
Handicapper	—	—	—
Multi-racial	—	—	—

I. Sources of Information

Some sources of information regarding affirmative action programs and equal opportunity employment are:

1. U.S. Equal Employment Opportunity Commission
"Affirmative Action and Equal Employment"
Volumes I and II
Washington, D.C. 20506
2. Michigan Civil Rights Commission
State of Michigan Plaza Building
1200 Sixth Avenue
Detroit, MI 48226
or
Michigan Civil Rights Commission
303 West Kalamazoo Street
4th Floor
Lansing, MI 48913
3. Detroit District EEOC Office
Michigan Building, Suite 600
220 Bagley Avenue
Detroit, MI 48226
4. State Court Administrative Office
Trial Court Services Division
PO Box 30048
Lansing, MI 48909

J. Sample Equal Employment Opportunity Policy/Program

1. Policy Statement

This court is committed to the concept of equal employment opportunity as a necessary element in its basic personnel and administrative policy. This commitment will be supported by positive, practical efforts to work continually toward improving recruitment, selection, employment, development, and promotional opportunities for all employees.

2. General Objectives

- a. To establish and maintain employment levels for females and minorities commensurate with their respective population ratios.
- b. To distribute these employment levels proportionately throughout the various job classifications whenever possible.

- c. To make a continuous effort to eliminate and prevent occurrences of arbitrary or discriminatory hiring and promotional practices.
- d. Sexual harassment is a form of unlawful discrimination. No court employee shall be subjected to sexual harassment by another employee during the course of his or her employment. For the purpose of this policy, sexual harassment is unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct or communication of a sexual nature when:
 - 1) submission to such conduct or communication is made a term or condition either explicitly or implicitly to obtain employment; public accommodations; or public services, education, or housing.
 - 2) submission to or rejection of such conduct or communication by an individual is used as a factor in decisions affecting such individual's employment; public accommodations; or public services, education, or housing.
 - 3) such conduct or communication has the purpose or effect of substantially interfering with an individual's employment; public accommodations; or public services, education, or housing; or creating an intimidating, hostile, or offensive employment; public accommodations; public services, educational, or housing environment.

The Michigan Civil Rights Commission has stated that compliance with the Michigan Civil Rights Act "requires employers to maintain a working environment free from verbal or physical sexual harassment and to take affirmative measures to eliminate such harassment when made aware of its existence." Sexual harassment will not be tolerated by the court.

- e. To establish on-the-job training programs and to encourage and compensate for outside educational activities as a means of upward mobility.

3. Implementation

The responsibility for continued implementation of the Equal Employment Opportunity Program rests jointly with the judge/designees and the court administrator. It will be the duty of the judge/designee to effectively communicate the intent and requirements of this program to the various supervisors. All employees of the court work force (administrators, directors, supervisors, and all other members) are committed to support the Equal Employment Opportunity Program as a matter of policy. Final responsibility for success of the program rests jointly with the judge/designee and the court administrator. The court must continue to actively recruit appropriate numbers of minority and female applicants at all levels of employment. Those individuals responsible for approving new employees to work in their departments or areas must exhibit a willingness to employ such applicants, as well as to encourage them to take advantage of whatever educational opportunities are available.

4. Training

Employees at all levels are encouraged to participate in conferences, training programs, and seminars for the improvement of current and new skills needed for present and/or other jobs.

5. Transfer, Promotions, Terminations, and Grievances

Charts at the end of the EEO Report will give figures regarding transfers and promotions.

K. Pre-Employment Inquiry Guide

1. Purpose and Outline of Guide

A pre-employment inquiry guide, available from the Michigan Department of Civil Rights, provides guidelines in the development and implementation of selection procedures. A list of both lawful and unlawful questions which can be asked of applicants is also provided. The guide is based on the provisions of Public Acts 220 and 453 of 1976 and can be used as an effective tool in minimizing the number of employment discrimination complaints. This benefits employers because of the financial savings of not having to defend such complaints.

2. Review of Applications by Michigan Department of Civil Rights

Courts who wish to have their employment applications reviewed may do so by forwarding a request and a copy of the application form to the:

Director of Enforcement
Michigan Department of Civil Rights
1200 Sixth Street
Detroit, MI 48226

3. Where to Send for Copies

Michigan Department of Civil Rights
State of Michigan Plaza Building
303 West Kalamazoo
1200 Sixth Avenue
Fourth Floor
Detroit, MI 48226
Lansing, MI 48913
(313) 256-2663
(517) 334-6079

In Northern Michigan call toll free 1-800-482-3604.

5-05 LABOR RELATIONS

A. Authority

Whether or not a court's employees have elected an exclusive representative through the mechanism provided for by law, the trial courts are governed by the provisions of the Public Employment Relations Act (PERA). Collective bargaining can be found in more than half of the trial courts. This statute is enforced by the Michigan Employment Relations Commission in the Michigan Department of Labor. [MCL 423.1 et seq.]

1. Unionized Court

An extensive body of case law has been developed over the past fifty years since the initial federal legislation mandating collective bargaining with employees' representatives in the private sector was enacted. Labor counsel should be consulted if the court is facing a representation election or collective bargaining for the first time.

2. Non-unionized Court

Where no recognized bargaining agent has been chosen by the employees to serve as their exclusive representative regarding their "wages, hours, and other terms and conditions of employment", the chief judge may exercise the authority provided in the chief judge rule without the obligation to negotiate with the court's employees. Factors to be considered in attempting to determine levels of compensation are addressed in Section 5-09, Compensation. "Management rights" remain with the chief judge along with the authority to establish personnel policies and, so-called work rules. Section 5-02, Personnel Programs in the Trial Court, addresses the typical topics found in formal personnel policies. Assistance in either area may be obtained from the State Court Administrative Office, private consultants, and (depending on local circumstances) from the funding unit(s).

B. Caselaw

Several Michigan Supreme Court decisions interpreting PERA as it applies to trial courts which should be reviewed include:

1. Judges of the 74th Judicial District v Bay County, 385 Mich 710 (1971)

In this case the court held that employees of the district court are employees of the judicial district, an administrative unit of the state's one district court, which in turn is a subdivision of Michigan's one court of justice; they are not employees of the county, city, or other district control unit even though they are paid by the district control unit. A collective bargaining agreement, executed by a county board of commissioners, as an employer, cannot and does not bind a judicial district.

2. Livingston County v Livingston Circuit Judge, 393 Mich 265, 272 (1975)

In this case the Supreme Court's opinion suggested that: "the best practice, in general, especially at initial bargaining sessions, is for the local judiciary to invite a representative of the commissioners to appear personally at such sessions. The commissioners' representative cannot actively bargain, of course, but such representative may present relevant data as to other county employees, e.g., wage levels for comparable jobs, provisions in other labor contracts, general county benefits, and county budget information."

3. Clare and Gladwin Probate Courts v Clare and Gladwin County Boards of Commissioners, 155 Mich App 433 (1986)

These consolidated cases stand for the proposition that a probate court has the authority to set salaries of its employees which, if reasonable and within the appropriations of the local funding unit, must be paid by the unit. In addition, where the probate court and the funding unit are unable to agree on such expenditures, the court may institute suit and shall bear the burden of proving that the appropriation it seeks is necessary to the performance of its statutorily mandated function.

4. Ottawa County Controller v Ottawa Probate Judge, 156 Mich App 595 (1986)

In this case, the court held that despite statutory language which might be construed as empowering a county board of commissioners to set the salaries of certain probate court employees, it is the probate judge who has the authority to set salaries of probate court employees so long as the court's total budget remains within the total budget appropriation set by the county board.

These last two cases involved non-union situations in which the court had determined the appropriate salary levels it wanted to pay to certain employees. In cases likely to result in litigation, consultants are useful in establishing the foundation required to prove that the court's proposed salary levels are reasonable and necessary. Again, private consultations are available as are the staff of the State Court Administrative Office Trial Court Services Division.

C. Duty to Negotiate

Under PERA, if a union wins a secret ballot election supervised by the MERC, management (the court) is legally obligated to bargain "in good faith" with the elected representative of its employees concerning "wages, hours, and other terms and conditions of employment."

D. Relationship with Funding Unit

1. Coordinating Labor Contracts

Many courts have discovered that a close working relationship between funding unit administration and the court can be achieved so that labor contracts can be negotiated in a coordinated fashion, often with the funding unit and the court using the same negotiating team. Such an arrangement is helpful in avoiding "whipsawing" in which the union might be able to play the court off against the funding unit to achieve greater benefits or compensation than could otherwise be achieved.

2. Budget Request

If a negotiated contract is reached requiring funding to implement, the court will present a budget request to its funding unit. In the event that a dispute appears possible concerning funding, the Regional Administrator of the State Court Administrative Office should be brought into the situation.

3. Appropriations

In 1985 the Michigan Supreme Court held that a court has the authority to set the salaries of its employees which, if not unreasonable and within the appropriations of the local funding unit, must be paid by the unit. A court does not, however, have authority to compel expenditures by local funding units in excess of appropriations through administrative orders. Where a court and the local funding unit are unable to agree on such expenditures, the court may institute suit and must bear the burden of proving that the appropriation it seeks is needed to fulfill the performance of a statutorily mandated function or functions. [2nd District Court v Hillsdale County, 423 Mich 705 (1985)]

4. Funding Disputes

In an Appendix to the Hillsdale decision, the court announced the issuance of Michigan Supreme Court Administrative Order 1985-6 setting forth the required pre-conditions to the initiation of a lawsuit by a trial court seeking to compel a local funding unit to appropriate funding for the court. One prerequisite is a written notice to the State Court Administrator not less than 30 days prior to the commencement of legal action. During this waiting period, the State Court Administrator shall attempt to aid the court and the involved local funding unit or units to resolve the dispute. Mediation is one method used to resolve funding disputes. (See also Section 6-07, page 6-07-03)

(see also Section 6-07, Funding Unit Disputes, pages 6-07-01 through 6-07-05, 1996 PA 374, and Mich Sup Ct 1997-6)

5-06 QUALIFICATIONS OF COURT STAFF

A. Source of Qualifications

For many trial court jobs the establishment of minimum qualifications will be the responsibility of the chief judge. The setting of minimum experience and education standards that can be defended if challenged is an important process. These qualification standards must be directly "job related" and should not exceed the minimum level required to perform the duties and responsibilities of the position.

For other jobs found in the trial courts, specific qualifications have been established externally. These are found in either the Michigan Court Rules or in the statutes. For many of these jobs, the source of specific minimum employment qualifications follow, grouped by source of the requirement.

B. Michigan Court Rules and Supreme Court Administrative Orders

1. Certification Requirement for Shorthand Reporters and Electronic Recorders
[MCR 8.108(G)(3)] (see also Manual for Court Reporters/Recorders)
2. Various Positions in Family Division of Circuit Court
[Mich Sup Ct AO 1985-5, amended by Mich Sup Ct AO 1988-3]
3. Referees in Family Division of Circuit Court
[MCR 5.913]

C. Michigan Statutes

Numerous positions reviewed in Section 4 of this manual have employment qualifications prescribed by law. These include:

1. Circuit Court Clerk [Const. 1963, Art. 6, Sec. 14, MCL 600.571(a)]
2. Friend of the Court [MCL 552.523(3)]
3. Friend of the Court Referee [MCL 552.507(1)]
4. Domestic Relations Mediator [MCL 552.513(4)]
5. District Court Magistrate [MCL 600.8507, MCL 600.8512]
6. Circuit and District Court Law Clerks [MCL 600.1471(2)]

7. Judicial Assistant [MCL 600.1481(1)]

8. Juvenile Court Referee [MCL 712A.10]

(see also pages 5-16-01 through 5-16-11, Court Employees Citations on Duties and Employment)

5-07 EFFECTIVE PERFORMANCE APPRAISAL AND EMPLOYEE DISCIPLINE

A. Authority

The American Bar Association's Commission of Standards of Judicial Administration recommends the adoption of "[u]niform procedures for making periodic evaluation of employee performance and decisions concerning retention and promotion.

B. Establishing a Program

Performance criteria are the basis upon which an effective performance evaluation program depends. In courts there are many jobs which cannot be easily measured, and there are many other jobs in which the quality of work is more important than the quantity. There is no simple method for determining the kind of performance evaluation plan to be used by courts.

Ideally, a plan would involve the development of realistic measurable goals, development and implementation of individual performance plans, and the discussion of these plans with affected staff. Periodic feedback and review sessions followed by year-end evaluation and communication of results to employees are also involved. The cycle is then repeated with the new performance plan being developed after the year-end review has taken place. Counseling, coaching, and motivation techniques should be designed to augment the performance evaluation system.

C. Employee Discipline

1. Concept of "Good Cause"

Effective employee discipline is essential in defending against grievances, litigation, and administrative investigation (civil rights, unjust termination, unemployment claims, etc.). Through the years courts, administrative agencies, and arbitrators have developed the concept of "good cause" for discipline and will frequently impute such a requirement regardless of written personnel policy statements to the contrary.

2. Applying "Good Cause" Concept

"Good cause" for discipline requires several steps. The court should ask itself these questions prior to imposing discipline:

- a. Was the employee warned of the consequences of the conduct? Some conduct is so unacceptable that no prior warning is required (e.g. theft, fraud, work-related criminal conduct).
- b. Was the work rule or order directly related to efficient and safe operations?

- c. Was a timely investigation conducted before discipline was administered?
- d. Was the investigation fair and objective?
- e. Did the investigation produce substantial evidence of misconduct?
- f. Have the rules, orders, and penalties been applied evenhandedly and without discrimination?
- g. Was the penalty reasonably related to the seriousness of the offense and the employee's past record?

5-08 ETHICAL CONSIDERATIONS

A. Introduction

Public confidence in the judiciary is eroded by irresponsible or improper conduct of judges and other court personnel. All those working within the judiciary must avoid all impropriety and appearance of impropriety. They must expect to be the subject of constant public scrutiny. As a result, they must accept restrictions on their conduct that might be viewed as burdensome by the ordinary citizen.

B. Code of Judicial Conduct, Applications to Judges and Staff

Judges and court staff should respect and observe the law and should conduct themselves at all times in a manner that promotes public confidence in the integrity and impartiality of the judicial system. They should not allow family, social, or other relationships to influence their conduct or judgment as they carry out official duties. These general principles are based on Canon 2 of the Code of Judicial Conduct (based upon the ABA Model Codes and available in the Michigan Rules of Court). Most of the Code can be used as a general guide for ethical conduct.

The Judicial Tenure Commission is responsible for disciplinary action based upon judicial misconduct. For the purposes of the Tenure Commission's authority, MCR 9.201(2) defines a "judge" as follows:

"(2) 'judge' means a judge of an appellate or trial court or a magistrate or referee appointed or elected under the laws of this state;"

Consequently, the body of case law interpreting the Code of Judicial Conduct arising out of determinations of the Judicial Tenure Commission and the State Bar Subcommittee on Judicial Ethics should be referred to by court staff occupying these quasi-judicial positions.

In addition, several sections of the Code of Judicial Conduct refer to court staff.

1. Canon 3, A(10)

Without regard to a person's race, gender, or other protected personal characteristic, a judge should treat every person fairly, with courtesy and respect. To the extent possible, a judge should require staff, court officials, and others who are subject to the judge's direction and control to provide such fair, courteous, and respectful treatment to persons who have contact with the court.

2. Canon 3, B(2)

A judge should direct his staff and court officials subject to his control to observe high standards of fidelity, diligence, and courtesy to litigants, jurors, witnesses, lawyers, and others with whom they deal in their official capacity.

3. Canon 7, B(1)

A candidate, including an incumbent judge, for a judicial office should prohibit public employees subject to his/her direction or control from doing for him/her what s/he is prohibited from doing under this Canon.

4. Canon 7, B(3)

No judge should himself/herself sell or permit any court or public employee working for or assigned to any court to sell fund raising tickets or accept contributions of any kind on his/her behalf or on behalf of any other judicial candidate.

C. Rules of Professional Conduct

Beyond the provisions of the Code of Judicial Conduct, judges and court staff who are members of the State Bar of Michigan are also subject to the requirements of the Rules of Professional Conduct. The Supreme Court delegated authority to the State Bar Subcommittee on Professional Ethics to provide written opinions interpreting the Michigan Rules of Professional Conduct. The Michigan Rules of Professional Conduct are based upon the ABA Model Codes and are available in the [Michigan Rules of Court](#).

D. Personnel Policies

A court should consider including, in its personnel policies, a section specifying the expectation that staff conform to ethical standards and avoid conflicts of interest or the appearance of conflict of interest. Assistance may be sought from the State Court Administrative Office Trial Court Services Division.

A model code of conduct for court employees has also been developed by the Michigan Judicial Institute (see <http://courts.michigan.gov/mji/resources/code-conduct.pdf>). A training module using the code is available from MJI in both CD-i and CD-ROM format. A trial court desiring to implement the model code of conduct, should consult with their local labor counsel or human resources department to determine whether these personnel rule provisions need to be included in or conflict with existing collective bargaining agreements.

E. Guidance for Determining Ethical Actions

Circumstances change or situations develop to the extent that ethical guidance is warranted. A judge or attorney on the court's staff can obtain advice on contemplated conduct from the State Bar of Michigan. The Supreme Court has directed the State Bar to split its Ethics Committee, creating a subcommittee with more judges on the judicial branch. The Committee is now the source of advisory opinions regarding ethical questions.

A judge or attorney may request a written advisory opinion on the inquirer's own proposed conduct by sending a written request to the State Bar Committee on Professional and Judicial Ethics, and setting forth a complete statement of the facts, issues, and legal authorities consulted on the question. Since the Committee is not a fact-finding body and will resolve the inquiry based upon the facts presented, it is important for the inquirer to provide as much relevant information as is available. The Committee does not address questions of law, but only questions regarding the application of the ethics codes. The Committee is not authorized to render an opinion concerning the conduct of someone other than the inquirer or concerning conduct that has already occurred. Although State Bar ethics opinions do not have the force and effect of law and may not be relied upon as an absolute defense to a charge of ethical misconduct, the opinions do provide reasoning, citations, and guidance regarding application of ethics rules.

Questions regarding ethics may be addressed to:

State Bar of Michigan
306 Townsend Street
Lansing, MI 48933-2083
(517) 486-ETHX

The State Bar of Michigan publishes all of its ethics resources, including codes, opinions, and bibliography of other ethics resources on its website at <http://www.michbar.org> under the “ethics opinions” tab. Telephone inquiries on ethics matters are directed to ethics counsel.

Additional research tools on judicial ethic topics are:

1. Reporter's Notes to Code of Judicial Conduct, by E. Wayne Thode, ABA/ABF, 1973, a publication concerning the ABA Model Codes of Judicial Conduct.
2. Judicial Conduct and Ethics, Shaman, Lubet & Alfini, The Michie Company, a work particularly helpful in understanding the reasons for the regulatory restrictions placed on sitting judges. It examines ethical restrictions on judges, examines the scope of the ABA Model Code of Judicial Conduct, and includes footnotes to judicial discipline cases.

5-09 COMPENSATION

A. Objectives

A trial court should have these objectives for its compensation program:

1. to attract qualified employees;
2. to retain those employees;
3. to motivate those employees to perform their duties and tasks in the most effective manner.

B. Goals

1. Internal Equity

Employees with more important, difficult, or responsible jobs should receive more compensation than those with less important, difficult, or responsible jobs. The State Court Administrative Office has available a Point Factor plan, initially used in the three state-funded courts under the jurisdiction of the State Judicial Council, which was designed specifically to measure the relative ranking of jobs in Michigan trial courts.

2. External Equity

The court should maintain a competitive posture with comparable employers in similar labor markets. The selection of comparable employers (often other courts) is frequently the most important decision the court will make in terms of designing a pay structure to meet the court's goals while maintaining a defensible pay structure.

3. Conservation of Limited Resources

The court must be cognizant of the fact that its financial resources are limited. The compensation program should be designed to assure management that compensation dollars are well spent and that compensation not justified by objective factors will be avoided.

4. Compliance with Government Regulations

The compensation program must assure that state and federal laws dealing with compensation of individuals are complied with. Such laws as the Equal Pay Act, the Age Discrimination in Employment Act, Title VII of the Civil Rights Act of 1964, and the Fair Labor Standards Act have a significant impact on how jobs are paid.

C. Development and Implementation of Compensation Program

The development and implementation of a technically sound, practical, and defensible compensation program designed to meet these goals and objectives can be achieved in several ways. Often courts avail themselves of existing classification and pay plans used by their funding units. Other courts contract with private management consulting firms to design and propose a compensation program for the court. In addition, the State Court Administrative Office's Trial Court Services Division may be available to carry out a study for the court if resources permit. Requests should be made to the appropriate Regional Administrator of the State Court Administrative Office.

D. Accepting Gratuities for Performing Marriages

Fees which may be collected by a judge or magistrate for performing marriages are set by statute and are charged by the court to be paid into funding units as specified in the Department of Treasury's Local Audit Bulletins. The authority for charging a fee in probate court is MCL 600.874, and the authority for charging a fee in district court is MCL 600.8316.

Performing marriages is not a quasi-judicial or extra-judicial activity as defined by Canon 6 of the Code of Judicial Conduct (see also Canon 5C) but is a judicial activity performed according to statute [MCL 551.7]. Therefore, any fee collected is **not** considered personal compensation to the judge or magistrate for performing the marriage and may not be personally retained. Neither may a judge or magistrate accept a gratuity in addition to the fee specified in statute. Collecting any fees in excess of those set by statute is a misdemeanor and is cause for forfeiture of office [MCL 600.2519].

(see also Section 6-01, page 6-01-01)

5-10 RETIREMENT

A. State Employees Retirement System

While the 3rd Circuit and 36th District Courts are no longer state funded, there are employees within those courts, and certain county juvenile officers, who remain members of the State Employees Retirement System administered by the Department of Management and Budget. [MCL 38.1 et seq.]

All new employees hired after March 30, 1997 participate in the Defined Contribution Retirement Plan which is a 401(k) plan designed as a primary retirement plan. The employee makes all investment decisions with a wide range of options available. The benefit at retirement is based upon the employee's investment account balance. The Plan is administered by the Michigan Department of Treasury.

B. Municipal Employees Retirement System

Many trial court employees are members of the Municipal Employees Retirement System. Amendments to the Municipal Employees Retirement Act in 1988 permit the chief judge of a trial court, with the concurrence of the governing body of the funding unit(s), to elect membership and select benefit options under the Act. This system is also administered by the Department of Management and Budget. [MCL 38.1501 et seq.]

C. City and County Retirement

Some trial court employees are presently covered by retirement plans made available by the funding unit.

D. Reciprocal Retirement Act

The Reciprocal Retirement Act provides for continuity of retirement system service credits for certain public employees who transfer their employment between different units of government. [MCL 38.1101 et seq.]

E. Judges Retirement System

The Michigan judges retirement system is created for judges and state officials. [MCL 38.2201]

1. Each of the following is a member of the retirement system:
 - a. A person who is duly elected or appointed as a judge or state official on or after the effective date of this act, unless within 30 days from taking office the judge or state official files a written notice not to participate in the retirement system with the retirement system.

- b. A person who was a member of the former judges retirement system or former probate judges retirement system on the day before the effective date of this act and who remains a judge or state official on and after the effective date of this act.
 - c. A person, other than a retirant, who is authorized by the supreme court to perform judicial duties for a limited period or a specific assignment pursuant to section 23 of article VI of the state constitution of 1963 and who performs at least 20 days of service in a 30-consecutive day period.
- 2. A judge or state official who becomes a member under subsection 1a shall complete a membership form furnished by the retirement system and shall forward the form to the retirement system within 30 days of taking office. A judge or state official upon becoming a member, is considered to have agreed that in the event of adjudication of the member's mental incompetency, a guardian, if appointed, has the power and authority to complete and execute the necessary application forms to retire the member as provided in section 507. In all cases of doubt, the retirement board shall decide the membership status of a judge or state official.
 - 3. The membership of a judge or state official in the retirement system ceases when the member retires, when the member forfeits his or her membership under the provision of section 507, at the end of the judicial term in which the member who is a judge attains age 70, or upon ceasing to be a judge or state official unless the person is a vested former member.

[MCL 38.2401 et seq.]

Unless there is prior State service, all new judges elected or appointed after March 30, 1997 participate in the Defined Contribution Retirement Plan which is a 401(k) plan designed as a primary retirement plan. The employee makes all investment decisions with a wide range of options available. The benefit at retirement is based upon the employee's investment account balance. The Plan is administered by the Michigan Department of Treasury.

[MCL 38.2110]

The Department of Management and Budget is responsible for budgeting, procurement, and related management functions of the retirement system. [MCL 38.2205]

[For more details, see the Judges Retirement Act of 1992, MCL 38.2101 et seq.]

F. Further Information

Information on these retirement systems can be obtained by writing to the Michigan Department of Management and Budget at:

State of Michigan
Office of Retirement Services
PO Box 30171
Lansing, MI 48909
(517) 322-5103 (inside Lansing) or (800) 381-5111 (outside Lansing)
<http://www.mi.gov/dmb/ors/>

5-11 VACATIONS AND OTHER LEAVE

A. Authority

Under the Chief Judge Rule, the chief judge has the authority and responsibility to coordinate judicial and personnel vacations and other absences. [MCR 8.110(C)(3)(e)]

A judge may not be absent from the court without the chief judge's prior approval except for personal illness. In making the decision on a request to approve a vacation or other absence, the chief judge shall consider, among other factors, the pending caseload of the judge involved. The chief judge shall withhold approval of vacation, judicial education, or judicial professional leave that conforms to these standards only if withholding approval is necessary to ensure the orderly conduct of judicial business. The chief judge shall maintain records of absences to be available at the request of the Supreme Court. [MCR 8.110(D)(6)]

B. Judicial Vacations

A judge is expected to take an annual vacation leave of 20 days with the approval of the chief judge to ensure docket coordination and coverage. A judge may take an additional 10 days of annual vacation leave with the approval of the chief judge. A maximum of 30 days of annual vacation unused due to workload constraints may be carried from one calendar year into the first quarter of the next calendar year and used during that quarter, if approved by the chief judge. Vacation days do not include:

1. attendance at Michigan judicial conferences;
2. attendance, with the chief judge's approval, at educational meetings or seminars;
3. attendance, with the chief judge's approval, at meetings of judicial committees or committees substantially related to judicial administration of justice;
4. absence due to illness; or
5. administrative leave with the chief judge's approval.

[MCR 8.110(D)(3)]

C. Personnel Vacations

As with holidays, personnel vacation policies usually have a very strong resemblance to the personnel vacation policy of the local governmental unit which provides personnel funding for the trial court. The vacation policy is usually documented in a personnel policy or union contract.

D. Judicial Education Leave

A judge is expected to take judicial education leave of 2 weeks every 3 years to participate in continuing legal education and training at Michigan judicial training programs and nationally recognized judicial education program, including graduate and refresher courses. Judicial education leave does not include judicial conferences for which attendance is required. The use of judicial education leave approved by the chief judge does not affect a judge's annual leave. [MCR 8.110(D)(4)]

E. Judicial Professional Leave

Judges are encouraged, as part of their regular judicial responsibilities, to participate in professional meetings and conferences that advance the administration of justice or the public's understanding of the judicial system; to serve on commissions and committees of state and national organizations that contribute to the improvement of the law or that advance the interests of the judicial system; and to serve on Supreme Court-appointed or in-house assignments or committees. The use of judicial professional leave approved by the chief judge does not affect a judge's annual leave or education leave. [MCR 8.110(D)(5)]

5-12 HOLIDAYS

A. Statutory Authority

Michigan has a Legal Holidays Act which designates the holidays to be observed in the holding of courts and the continuance of suits and by the banking industry. After setting forth the holidays, the act provides:

"This act shall not prevent or invalidate the entry, issuance, service, or execution of a writ, summons, or confession of judgment, or other legal process, the holding of court . . ."
[MCL 435.101]

Since holidays are a negotiable item between employer and employee and since the Legal Holidays Act allows courts to conduct business on legal holidays, many trial courts have established a holiday schedule which varies from the Legal Holidays Act.

B. Uniformity with Local Government Practices Through Administrative Order

Courts are encouraged to adopt an administrative order if appropriate to accommodate or achieve uniformity with the holiday practices of local government units regarding local public employees. The court rule addresses a practical reality; it is easier for the local government unit operating a public building and for the public using government services if a public building is either open or closed for all services provided within the building. [MCR 8.110(D)(2)(c)]

C. Courts Without Administrative Orders

The chief judge rule provides a list of holidays to be observed by all state courts except those who have adopted a holiday schedule by administrative order. This holiday schedule is consistent with the holiday schedule adopted by the state civil service and, therefore, conforms to the days state office buildings in Lansing are closed for business. [MCR 8.110(D)(2)]

D. Exceptions

A judge may continue a trial in progress or dispose of judicial matters on any of the listed holidays if s/he finds it to be necessary. [MCR 8.110(D)(2)(d)]

Any action taken by a court on February 12, Lincoln's birthday, or on the second Monday in October, Columbus Day, shall be valid. [MCR 8.110(D)(2)(e)]

5-13 TRAVEL EXPENSE REIMBURSEMENT GUIDELINES

A. Authority to Determine and Authorize Travel Expense Reimbursement Rates

As the employer of court employees, the chief judge has the authority to establish travel expense reimbursement rates. In a unionized court this is a negotiable item.

B. Adoption of Guidelines

As with holidays, vacations, and other personnel matters, deference should be made to the travel expense reimbursement rates of the local funding unit for reimbursement of local public employees.

C. Travel Reimbursement Rates Authorized by the State Court Administrator

Annually, in conjunction with the state fiscal year, the State Court Administrator establishes travel reimbursement rates for travel authorized and reimbursed by the State Court Administrative Office. See the rates at the State Court Administrative Office website at:
<http://courts.michigan.gov/scao/resources/other/intrate.htm>.

5-14 STAFFING PROBLEMS FOR MULTI-LOCATION COURTS

Multi-county circuit, district, and probate courts experience unique personnel problems because they have groups of employees at each court location. Usually the employees share a facility with local government employees and the personnel policies are usually more like the policies of local government employees than like the policies for other court employees in single location counties.

Since compensation for the court employees is provided by local funding units, the chief judge must recognize the effect the local political reality has for each group of employees. Often, personnel issues must be carefully negotiated with the local funding unit of each location.

Regional state court administrators are available to assist chief judges and court administrators with the difficult problems created by multi-location courts.

5-15 CONTRACTING OR PURCHASING SERVICES FOR THE COURT

An increasing number of courts are now purchasing services and/or contracting for services with agencies and organizations outside of the court system. Many courts are utilizing this practice in order to cope with increasing demands for services in specialized areas. While contracting for services may be the answer in some areas where courts have limited resources to meet increased demands, a cautionary note should be injected into any discussion of courts purchasing or contracting for services.

Any contractual proposal or procedure should be carefully reviewed prior to implementation. Care should be taken to ensure that any and all statutory restrictions or requirements are met for the provision of service. This would include appropriate licensing, accreditation, and proper credentials on the part of individuals or organizations providing service. Additionally, contractual procedures are most beneficial if proper planning and deliberation take place to ensure that contractual services fit appropriately into the overall system of court services being provided.

One form of contracting for services that warrants special mention is the hiring of individuals as independent contractors. Courts sometimes hire individuals as independent contractors to perform various services and functions. Because social security, income and state taxes are not withheld from independent contractors and they typically do not receive fringe benefits, there are perceived tax benefits and lower fringe benefit costs. However, it is extremely important to ensure that individuals hired as independent contractors are bona fide independent contractors. The Internal Revenue Service utilizes approximately twenty factors designed to assess the degree of control an employer exercises over a worker. Affirmative answers to the IRS criteria illustrates a degree of control which indicates that the worker is an employee, not an independent contractor. Employers who improperly classify workers as independent contractors are required to pay taxes that should have been withheld from a worker's wages. There are criminal sanctions for employers who wilfully misclassify workers.

In addition to statutory requirements and credentials for contractors, consideration should be given to overall use of court revenues and the impact of contractual services upon a particular court budget. Time, convenience, and organizational structure are important factors to be considered also. How efficient, available, and satisfactory a contractual service proves to be is determined, in part, by realistic assessment of resources and organizational structure. Adequate time and planning by a court prior to purchasing services does help ensure the success of contractual court programs.

5-16 COURT EMPLOYEES CITATIONS ON DUTIES AND EMPLOYMENT

The following statutes, court rules, and other authority pertaining to various court employees are not a complete listing. Most of the statutes which have been cited refer only to general authority, appointment, qualifications and duties. While some of the statutes pertaining to specific functions have been cited below, keep in mind that there are many more which have not been cited because of the limitations of space in the manual. The Michigan Court Rules provide a general basis for procedural duties and correspond to the more specific descriptions in statutes.

A. Circuit Court

1. Court Administrator

MCR 2.403(F) - Designation as ADR Clerk
MCR 2.510(D) - Summoning Jurors for Court Attendance
MCR 3.211(D) - Payment of Support
MCR 8.110(C)(6) - Delegation of Administrative Duties by Chief Judge

2. Court Clerk and Deputy

Const. 1963, Art. 6, Sec. 14 - County clerks duties
MCL 45.41 - Appointment of deputies
MCL 45.401 et seq. - County officers; compensation
Chapter 50 of the Michigan Compiled Laws - County clerk
MCL 168.191 et seq. - County officers; eligibility
MCL 168.224 - Nominating petitions
MCL 168.233 - Certificate of election
MCL 168.263 - Certificate of election
MCL 201.15 through MCL 201.17 - Vacancies in office
MCL 201.35 - Vacancy in county office
MCL 600.565 through MCL 600.579 - Circuit courts
MCL 600.1340 - County clerk's certificate; jurors
MCL 722.719 - Filing of paternity bond
MCL 780.163(1) - Support enforcement; duties of responding court
MCL 780.167 - Support enforcement; duties of responding court
MCL 780.168 - Support enforcement; duties of initiating court
MCL 780.178 - Registration of foreign support orders
MCL 780.180 - Registration of foreign support orders
MCR 2.102 - Summons
MCR 2.107(G) - Filing Defined
MCR 2.109(A) - Security for Costs
MCR 2.119(E)(4)(b) and (G)(2) - Motion Fees and Costs
MCR 2.222(D)(2) - Change of Venue - Jury Fee
MCR 2.223(B)(3) - Change of Venue - Costs

MCR 2.225(C) Joinder of Party - Jury Fee
MCR 2.227(A)(3), (4) and (B)(3) - Transfer of Actions
MCR 2.403 - Mediation
MCR 2.502(B)(1) - Dismissal for Lack of Progress
MCR 2.506(B) and (I)(2), (3) - Subpoena
MCR 2.507(G) - Deposit of Fees
MCR 2.510 - Juror Personal History Questionnaire
MCR 2.511(G) - Oath of Jurors
MCR 2.517(A)(5) - Notification of Findings
MCR 2.602(B)(3) and (D) - Entry of Judgments/Orders
MCR 2.603(A)(1), (2)(a) and (B)(2), (4) - Default and Default Judgment
MCR 2.611(G) - Notice of Decision on Motion for New trial
MCR 2.620 - Satisfaction of Judgment
MCR 2.625(F) - Taxation of Costs
MCR 3.101(D), (I), (K)(4), and (L)(1) and (2) - Garnishment
MCR 3.103(G)(2) - Attachment
MCR 3.203 - Domestic Relations Process
MCR 3.205(B) and (C) - Notice to Prior Court
MCR 3.210(B)(3) - Judgment Fee
MCR 3.211(D) - Payment of Support
MCR 3.213 - Postjudgment Motions
MCR 3.403 - Sale of Premises
MCR 3.605(E) - Collection of Penalties, Fines, Forfeitures, and Recognizances
MCR 6.101(B) - Signature and Oath on Criminal Complaint
MCR 6.102(A) - Issuance of Warrant
MCR 6.103(A) - Issuance of Summons
MCR 6.304(D) - Report of Plea
MCR 6.425 - Appointment of Appellate Counsel
MCR 6.427 - Judgment
MCR 6.433(A)(1) and (D) - Postconviction Proceedings
MCR 6.502(C) - Postappeal Relief
MCR 6.503 - Filing and Service of Motion
MCR 6.505 - Right to Legal Assistance
MCR 6.507 - Expansion of Record
MCR 7.101 - Appeals to Circuit Court
MCR 7.105(J)(6) and (K)(4) - Appeals from Administrative Agencies
MCR 7.204(E), (F), and (G) - Trial Court and Other Filing Requirements
MCR 7.209(F)(2)(f) and (G) - Change of Address; Filing of Appeal Bond
MCR 7.210 - Record on Appeal
MCR 7.211(C) - Special Motions
MCR 8.103(7) - Reports
MCR 8.105 - General Duties of Clerks
MCR 8.106 - Money Paid into Court
MCR 8.108(D) - Transfer of Court Reporters and Recorders Records
MCR 8.110(C)(6), (7) - Delegation of Administrative Duties; Direction to Supply Forms

MCR 8.111(C) and (D)(3) - Assignment of Cases
MCR 8.119 - Court Records and Reports; Duties of Clerks

*This does not represent a comprehensive list of court rules which refer to filing something with the clerk since it is the corresponding duty of the clerk to receive items for filing. The general obligation of the clerk to accept papers for filing is stated in MCR 2.107(G) and MCR 8.119.

3. Court Reporter/Recorder

MCL 600.1101 et seq. - Court reporter/recorder number
MCL 600.2543 - Circuit court stenographers; transcripts, fees
MCR 2.305 - Subpoena for Taking Deposition
MCR 2.306 - Deposition on Oral Examination
MCR 2.307 - Depositions on Written Questions
MCR 5.925(B) - Record of Proceedings
MCR 6.101(B) - Signature and Oath on Criminal Complaint
MCR 6.402(B) - Waiver and Record Requirements
MCR 6.403 - Trial in Waiver Cases
MCR 6.419(D) - Explanation of Rulings on Record
MCR 6.425(F) - Appointment of Lawyer
MCR 7.101(F) - Record on Appeal
MCR 7.210(B) - Transcript
MCR 8.108 - Court Reporters and Recorders
MCR 8.110(C)(3) - Duties and Powers of Chief Judge

4. Sheriff and Deputy Sheriff

MCL 45.401 et seq. - County officers; compensation
Chapter 51 of the Michigan Compiled Laws - Sheriffs
MCL 168.191 et seq.; MSA 6.1191 et seq. - County officers; eligibility
MCL 600.581 through MCL 600.589 - Court sessions
MCR 2.103(D) - Process Requiring Arrest
MCR 2.510(D) - Summoning Jurors
MCR 3.103(E) - Attachment; Execution of Writ
MCR 3.105(F), (G), and (J) - Claim and Delivery; Seizure, Delivery, Execution
MCR 6.102(E) - Execution and Return of Warrant

5. Friend of the Court

MCL 552.501 et seq. - Friend of the Court Act
MCL 552.601 et seq. - Support and Parenting Time Enforce. Act
MCL 552.671 et seq. - Interstate Income Withholding Act

MCL 722.719 - Paternity bond
MCL 722.729 - Service fees for support payments
MCL 780.167 - Enforcement of support; duties of responding court
MCL 780.168 - Enforcement of support; duties of responding court
MCL 780.173 - Enforcement of support; duties of responding court
MCL 780.179(2) and (3) - Register of support orders
MCR 3.203(B) and (D) - Process
MCR 3.204(B) and (C) - Proceedings Affecting Minors
MCR 3.205(B) - Notice to Prior Court
MCR 3.208 - Friend of the Court
MCR 3.210(B) - Defaults
MCR 3.211(A)(2), (B)(3), and (D)(3) - Judgments and Orders
MCR 3.213 - Postjudgment Motions

6. Friend of the Court Referee

MCL 552.507 - Referee; designation; powers
MCL 552.508 - Expedited relief

7. Domestic Relations Mediator

MCL 552.513 - Mediation
MCR 3.211 - Judgments and Orders

8. Judicial Assistant

MCL 600.1481 - Appointment, eligibility, duties, etc.

9. Judicial Clerk

MCL 600.565- Judicial clerks

10. Judicial Secretary

MCR 8.110(C)(3)(d) - Supervision of Performance

11. Law Clerk

MCL 600.1471(1) - (5) - Research law clerks
MCR 8.110(C)(3)(d) - Supervision of Performance

12. Marriage Counselor

MCL 551.332 et seq. - Family counseling services

13. Probation Officer

MCL 771.14 - Presentence investigation report
MCL 771.14a - Presentencing report; juveniles
MCL 791.222 - Appointment, supervision, removal
MCL 791.223 - Assistant director
MCL 791.223a - Personnel
MCL 791.225 - Compensation
MCL 791.229 - Records and reports
MCR 6.425(A) - Presentence Report
MCR 6.445(G) - Probation Revocation
MCR 6.931(E)(1) and (F) - Juvenile Sentencing

14. Parole Officer

MCL 791.231 - Field services
MCL 791.236 - Order of parole
MCL 791.239 - Arrest without warrant

15. Juvenile Court Administrator/Director

Mich Sup Ct AO 1985-5 as amended by Mich Sup Ct AO 1988-3 - Juvenile Standards

16. Juvenile Register

MCL 712A.7 - Appointment, duties, salary
Mich Sup Ct AO 1985-5 as amended by Mich Sup Ct AO 1988-3 - Juvenile Standards
MCR 2.119(E)(4)(b) and (G)(2) - Motion Fees and Costs
MCR 2.510 - Juror Personal History Questionnaire
MCR 2.511(G) - Oath of Jurors
MCR 5.602(B) - Entry of Judgments and Orders
MCR 5.903(A)(5), (15) - Filing of Petition; Authorization
MCR 5.920(B), (C), and (F) - Service of Process
MCR 5.925(C) - Open Proceedings
MCR 5.926 - Transfer of Jurisdiction
MCR 5.927 (See MCR 3.205) - Prior Court Orders
MCR 5.935(C)(3), (6), (7) - Release of Juvenile
MCR 5.936(C) - Notice of Disposition
MCR 5.974(C) - Notice; Parental Rights
MCR 5.980(A) - Child Custody Proceedings
MCR 6.911(B) - Transfer to Juvenile Court
MCR 7.101(C)(2), (D)(1), (E), (F), (G), (I), (J), (M), and (N) - Appeals
MCR 7.209(G) - Bond on Appeal
MCR 7.210(B), (C), (D), (E), (H), and (J) - Record on Appeal

MCR 7.211(C) - Motions in Court of Appeals
MCR 8.103(7) - Reports
MCR 8.105 - General Duties of Clerks
MCR 8.106 - Money Paid into Court
MCR 8.108(D) - Transfer of Court Reporters and Recorders Records
MCR 8.110(C)(6), (7) - Delegation of Administrative Duties; Direction to Supply Forms
MCR 8.111(C) and (D)(3) - Assignment of Cases
MCR 8.119 - Court Records and Reports; Duties of Clerks

17. Juvenile Referee

MCL 712A.10 - Probation officers designated as referees
MCL 791.228 - Probation record
MCR 5.903(A)(15) - Authorization of Petition
MCR 5.913 - Referees
MCR 5.925(B) - Record of Proceedings
MCR 5.934(B)(2) - Temporary Detention; Court not Open

18. Juvenile Probation Officer

MCL 712A.9 - Appointment, compensation, duties
MCL 712A.10 - Probation officers designated as referees
MCL 712A.14 - Custody
Mich Sup Ct AO 1985-5 as amended by Mich Sup Ct AO 1988-3 - Juvenile Standards

19. Detention Home Employees when facility operated by court

MCL 712A.2(e) - Prevention programs
MCL 712A.16 - Detention
Mich Sup Ct AO 1985-5 as amended by Mich Sup Ct AO 1988-3 - Juvenile Standards

20. County Juvenile Officer

MCL 400.251 - Appointment, term, compensation
MCR 3.205(B) - Notice to Prior Court

21. County Agent

MCL 712A.8 - Creation of office

B. District Court

1. Clerk and Deputy

MCL 600.1340 - Jurors; court clerks' certificate
MCL 600.8271 - District court operation
MCL 600.8281 - Appointment; term
MCL 600.8404 and 600.8405 - Small claims
MCR 2.102 - Summons
MCR 2.107(G) - Filing Defined
MCR 2.109(A) - Security for Costs
MCR 2.119(E)(4)(b) and (G)(2) - Motion Fees and Costs
MCR 2.222(D)(2) - Change of Venue - Jury Fee
MCR 2.223(B)(3) - Change of Venue - Costs
MCR 2.225(C) Joinder of Party - Jury Fee
MCR 2.227(A)(3), (4) and (B)(3) - Transfer of Actions
MCR 2.403 - Mediation
MCR 2.502(B)(1) - Dismissal for Lack of Progress
MCR 2.506(B) and (I)(2), (3) - Subpoena
MCR 2.507(G) - Deposit of Fees
MCR 2.510 - Juror Personal History Questionnaire
MCR 2.511(G) - Oath of Jurors
MCR 2.517(A)(5) - Notification of Findings
MCR 2.602(B)(3) and (D) - Entry of Judgments/Orders
MCR 2.603(A)(1), (2)(a) and (B)(2), (4) - Default and Default Judgment
MCR 2.611(G) - Notice of Decision on Motion for New trial
MCR 2.620 - Satisfaction of Judgment
MCR 2.625(F) - Taxation of Costs
MCR 3.101(D), (I), (K)(4), and (L)(1) and (2) - Garnishment
MCR 3.103(G)(2) - Attachment
MCR 3.403 - Sale of Premises
MCR 3.605(E) - Collection of Penalties, Fines, Forfeitures, and Recognizances
MCR 4.002(A)(1), (C), and (D) - Transfer of Actions
MCR 4.101(B)(3) and (G)(4) - Civil Infraction Default; Appeal
MCR 4.201(A), (C), (F)(4)(a), (H)(2), and (K)(5) - Summary Proceedings
MCR 4.202(E), (H)(2), and (J) - Summary Proceedings
MCR 4.302(A) - Small Claims; Statement of Claim
MCR 4.303(A) and (C) - Small Claims; Notice
MCR 4.306(B)(2), (C)(3), and (D) - Small Claims; Removal to Trial Court
MCR 6.101(B) - Signature and Oath on Criminal Complaint
MCR 6.102(A) - Issuance of Warrant
MCR 6.103(A) - Issuance of Summons
MCR 6.110(G) - Return of Examination
MCR 6.427 - Judgment
MCR 6.615(B) - Misdemeanor Traffic; Appearance; Failure to Appear

MCR 6.905(D) - Assistance of Attorney; Cost (Juvenile)
MCR 6.911(B) - Preliminary Examination (Juvenile)
MCR 7.101(C)(2), (D)(1), (E), (F), (G), (I)(2), (J), (M), and (N) - Appeals to Circuit Court
MCR 8.103(7) - Reports
MCR 8.105 - General Duties of Clerks
MCR 8.106 - Money Paid into Court
MCR 8.108(D) - Transfer of Court Reporters and Recorders Records
MCR 8.110(C)(6), (7) - Delegation of Administrative Duties; Direction to Supply Forms
MCR 8.111(C) and (D)(3) - Assignment of Cases
MCR 8.119 - Court Records and Reports; Duties of Clerks
MCR 8.201 - Allocation of Costs in Third-Class Districts
MCR 8.204 - Bonds for Clerks

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2. Magistrate

MCL 551.7(1)(b) - Solemnizing marriages, authority
MCL 600.8271 - District court operation
MCL 600.8316 - Authorization to perform marriages
MCL 600.8427 - Small claims hearing procedure
MCL 600.8501 et seq. - Magistrates
MCR 4.101(D) - Civil Infraction; Admission without Explanation
MCR 4.401 - Magistrates
MCR 5.935(A)(3) - Special Adjournment (Juvenile)
MCR 5.939(B) - Probable Cause Finding of Magistrate (Juvenile)
MCR 6.102(A) - Arrest on Warrant; Issuance
MCR 6.104 - Arraignment on Warrant or Complaint
MCR 6.615(C) - Misdemeanor Traffic; Arraignment
MCR 6.905 - Assistance of Attorney (Juveniles)
MCR 6.907 - Arraignment (Juveniles)
MCR 6.909(A) - Release or Detaining Juveniles
MCR 6.911 - Preliminary Examination (Juveniles)
MCR 8.204 - Bonds for Magistrates
MCR 8.205 - Magistrates

3. Court Reporter/Recorder

MCL 600.8271 - District court operations
MCL 600.8601 et seq. - Recorders and reporters
MCR 2.305 - Subpoena for Taking Deposition
MCR 2.306 - Deposition on Oral Examination

MCR 2.307 - Depositions on Written Questions
MCR 4.201(E) - Recording (Landlord/Tenant)
MCR 6.419(D) - Explanation of Rulings on Record
MCR 6.610(C) - Criminal Procedure (Record)
MCR 6.911 - Preliminary Examination (Juvenile)
MCR 7.101(F) - Record on Appeal
MCR 7.210(B) - Transcript
MCR 8.108 - Court Reporters and Recorders
MCR 8.110(C)(3) - Duties and Powers of Chief Judge

4. Sheriff and Deputy Sheriff

MCL 45.401 et seq. - County officers; compensation
Chapter 51 of the Compiled Laws - Sheriffs
MCL 168.191 et seq. - County officers; eligibility
MCL 600.581 through MCL 600.589 - Court sessions
MCL 600.8321 - Service of process
MCR 2.103(D) - Process Requiring Arrest
MCR 2.510(D) - Summoning Jurors
MCR 3.103(E) - Attachment; Execution of Writ
MCR 3.105(F), (G), and (J) - Claim and Delivery; Seizure, Delivery, Execution
MCR 6.102(E) - Execution and Return of Warrant

5. Probation Officer

MCL 600.8314 - Establishment of probation department
MCR 6.425(A) - Presentence Report
MCR 6.445(G) - Probation Revocation

6. Judicial Assistant

MCL 600.1481 - Appointment, eligibility, duties, etc.

7. Judicial Secretary

MCL 600.8601 - Court recorder or reporter
MCR 8.110(C)(3)(d) - Supervision of Performance

8. Law Clerk

MCL 600.1471(1) - (5) - Research clerk
MCR 8.110(C)(3)(d) - Supervision of Performance

C. Probate Court

1. Probate Register, Deputy, and Clerk

MCL 600.833 - Probate register
MCL 600.834 - Powers of probate register
MCL 600.836 - Deputy register, clerks duties
MCR 2.107(G) - Filing Defined
MCR 2.109(A) - Security for Costs
MCR 2.119(E)(4)(b) and (G)(2) - Motion Fees and Costs
MCR 2.227(A)(3), (4) and (B)(3) (see MCR 5.221) - Transfer of Actions
MCR 2.502(B)(1) - Dismissal for Lack of Progress
MCR 2.506(B) and (I)(2), (3) - Subpoena
MCR 2.507(G) - Deposit of Fees
MCR 2.510 (see MCR 5.510) - Juror Personal History Questionnaire
MCR 2.511(G) - Oath of Jurors
MCR 2.517(A)(5) - Notification of Findings
MCR 2.611(G) - Notice of Decision on Motion for New Trial
MCR 2.625(F) - Taxation of Costs
MCR 3.205(B) and (C) - Notice to Prior Court
MCR 3.605(E) - Collection of Penalties, Fines, Forfeitures, and Recognizances
MCR 5.001(B) - Terminology
MCR 5.113(A)(2) and (D) - Papers; Form and Filing
MCR 5.508(A) - Jury Trial of Right; Demand
MCR 5.602(B) - Form and Signing of Judgments and Orders
MCR 5.703(B)(1) - Initial Hearing; Proofs
MCR 5.707(B) - Notice to Personal Representative; Reporting
MCR 5.709(B) - Independent Probate; Denial of Petition
MCR 5.722(D) - Trustee Accounting; Follow-up Procedures
MCR 5.741(B) - Inquiry in Adequacy of Treatment; Notice of Written Report
MCR 5.765(C)(2) - Notice; Testamentary Guardian of LIP
MCR 5.766(B) - Notice; Testamentary Guardian of DDP
MCR 5.769(E) - Report of Guardian; Inventories and Accounts; Procedures
MCR 5.802(B)(2) - Appellate Procedure
MCR 7.101(C)(2), (D)(1), (E), (F), (G), (I)(2), (J), (M), and (N) - Appeals to Circuit
MCR 7.204(E), (F), and (G) - Trial Court and Other Filing Requirements
MCR 7.209(F) and (G) - Change of Address; Filing of Appeal Bond
MCR 7.210(B), (C), (D), (E), (F), (H), and (J) - Record on Appeal
MCR 7.211(C) - Special Motions
MCR 8.103(7) - Reports
MCR 8.105 - General Duties of Clerks
MCR 8.106 - Money Paid into Court
MCR 8.108(D) - Transfer of Court Reporters and Recorders Records
MCR 8.110(C)(6), (7) - Delegation of Administrative Duties; Direction to Supply Forms
MCR 8.111(C) and (D)(3) - Assignment of Cases

MCR 8.119 - Court Records and Reports; Duties of Clerks

MCR 8.301 - Powers of Register of Probate

MCR 8.302 - Documents and Files

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2. Sheriff and Deputy Sheriff

MCL 45.401 et seq. - County officers; compensation

Chapter 51 of the Compiled Laws - Sheriffs

MCL 168.191 et seq. - County officers; eligibility

MCL 600.581 through MCL 600.589 - Court sessions

MCL 600.8321 - Service of process

MCR 2.103(D) - Process Requiring Arrest

MCR 2.510(D)- Summoning Jurors

3. Court Reporter/Recorder

MCL 600.835 - Official court reporters or certified recorders

MCL 600.836 - Duties

MCR 2.305 - Subpoena for Taking Deposition

MCR 2.306 - Deposition on Oral Examination

MCR 2.307 - Depositions on Written Questions

MCR 7.101(F) - Record on Appeal

MCR 7.210(B) - Transcript

MCR 8.108 - Court Reporters and Recorders

MCR 8.110(C)(3) - Duties and Powers of Chief Judge

(see also pages 5-06-01 and 5-06-02, Qualifications of Court Staff)